

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.B.KOSHY

&

THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

TUESDAY, THE 27TH MARCH 2007 / 6TH CHAITHRA 1929

OP.No. 30404 of 2000(S)

OA.1149/1997 of CENTRAL ADMINISTRATIVE TRIBUNAL,ERNAKULAM BENCH
.....

PETITIONER:

SUSAN REJI SAMUEL, AGED ABOUT 35 YEARS, W/O. V.S. JAMES,
SENIOR DRAFTSMAN, SOUTHERN RAILWAY, DIVISIONAL OFFICE, TVM.,
RESIDING AT ATTUMALIL HOUSE, VELLAYANI P.O., TVM.

BY ADV. SRI.T.C.GOVINDA SWAMY

RESPONDENTS:

1. UNION OF INDIA, THROUGH THE GENERAL MANAGER, SOUTHERN RAILWAY,
HEADQUARTERS OFFICE, PARK TOWN P.O., CHENNAI – 3.
2. THE CHIEF PERSONNEL OFFICER, SOUTHERN RAILWAY, DO. DO.
3. THE CHIEF ENGINEER, DO. DO.
4. THE CAT, ERNAKULAM BENCH THROUGH ITS REGISTRAR.

SRI.VARGHESE P.THOMAS, SC, RAILWAYS

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD
ON 27/03/2007, THE COURT ON THE SAME DAY DELIVERED THE
FOLLOWING:

APPENDIX

EXT.P1 SERIES-TRUE COPY OF THE NOTIFICATION OF THE RAILWAY RECRUITMENT BOARD

EXT.P2-TRUE COPY OF THE OA 1149/97 FILED BEFORE CAT ERNAKULAM BENCH AND ALONG WITH ITS ANNEXURES

EXT.P3-TRUE COPY OF REPLY STATEMENT IN OA 1149/97 FILED BY THE RESPONDENTS

EXT.P4-TRUE COPY OF THE ORDER IN OA 1149/97 DT.19.6.2000 PASSED BY THE CAT

EXT.P5-TRUE COPY OF THE LETTER DATED 24.10.97 ISSUE DBY R2

EXT.P6-TRUE COPY OF LETTER DT.14.5.98 ISSUED BY DRM/S/TVC

EXT.P7-TRUE COPY OF CIRCULAR DATED 22.1.87 ISSUED FROM THE OFFICE OF THE GENERAL MANAGER, SOUTHERN RAILWAY, MADRAS.

RESPONDENTS' EXTS:

EXT.R1(A)-TRUE PHOTO COPY OF LETTER DATED 9.1.91 OF SR. D.P.O./PGT TO CPO/MAS

EXT.R1(B)-TRUE COPY OF ORDER DT.1.7.91 OF CHIEF PERSONNEL OFFICER.

EXT.R1(C)-TRUE COPY OF THE SERVICE REGISTER OF THE PETITIONER.

// TRUE COPY //

P.S. TO JUDGE

J.B. Koshy & T.R. Ramachandran Nair, JJ.

O.P.NO. 30404 of 2000-S

Dated this the 27th day of March, 2007

JUDGMENT

T.R. Ramachandran Nair, J.

The applicant before the Tribunal is the petitioner in the original petition. She responded to the notification issued by the Railway Recruitment Board inviting applications for the post of Draftsman 'B' (Civil), etc. all carrying the same scale of pay of Rs.1400-2300. She gave her willingness for appointment by showing order of preference in three different posts. At the time of interview, she submitted fresh proforma indicating her first choice to the post of Senior Draftsman/Draftsman 'B'. When the common rank list was published, she was offered appointment as a Permanent Way Inspector in Grade III. She accepted the offer and underwent the training also. In view of the nature of duties, she submitted a request dated 26.11.1990 before the third respondent for change of category as Senior Draftsman, since according to her, there was only a common ranking for all the posts. Even though her application was considered, she was informed that for allowing change of category, she would be given only the lower post of Apprentice Asst. Draftsman with a reduced scale of pay.

The petitioner has got a case that even though initially she expressed her willingness for the said course, before any action was taken upon it, she withdrew her willingness and renewed her request that she be considered for a posting as Draftsman 'B'. The petitioner was relieved as Asst. Draftsman as per order dated 24.7.1991 of the competent authority. This led to her filing O.A. No.893/1996 wherein a direction was issued to consider her representation by the first respondent General Manager. Since the request of the petitioner did not find favour with the respondents, she filed the present O.A.No.1149/1997. By Ext.P4, the Tribunal rejected the same. Challenging the said order of the Tribunal, the petitioner filed this original petition.

2. The Tribunal took the view that the applicant never applied for the post of Senior Draftsman and her posting as Apprentice Asst. Draftsman was specifically on her acceptance of the lower post. Therefore, the Tribunal rejected the prayer to declare that she is entitled to be appointed to the post of Senior Draftsman.

3. We see no ground to interfere with the above finding of the Tribunal. The petitioner accepted the offer to post her as Apprentice Asst. Draftsman and accordingly the Railway Administration granted the request. It cannot be said that the respondents have acted arbitrarily in the matter. Further, as far as the nature of duties are concerned, it is also evident that there is no discrimination between male and female and having competed

for the post, she cannot turn round and raise complaints regarding the nature of duties. It is also clear that the Railway Administration after considering her difficulties, allowed her request for change of category for the post of Asst. Draftsman even though the said post is to be filled up 100% by direct recruitment. Even though initially she was not willing, finally she expressed her willingness to join as Asst. Draftsman by submitting acceptance letter. The change of stand thereafter cannot therefore be justified and the action of the Railway Administration cannot be termed as illegal. The Tribunal in the impugned order, has further granted permission to her to submit her unconditional willingness to accept appointment as PW1 Grade III without loss of seniority, etc.

In the above circumstances, it cannot be said that the Tribunal has acted perversely in rendering the impugned order. We see no ground to interfere with the order under Article 227 of the Constitution of India. The Original Petition is therefore dismissed.

(J.B. Koshy, Judge.)

(T.R. Ramachandran Nair, Judge.)

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J.B. Koshy & T.R. Ramachandran Nair, JJ.

O.P.NO. 30404 of 2000-S

JUDGMENT

27th day of March, 2007